

AARON D. FORD
Attorney General
D. RANDALL GILMER, Bar No. 14001
Chief Deputy Attorney General
DOUGLAS R. RANDS, Bar No. 3572
Senior Deputy Attorney General
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
Tel: (702) 486-3427
Fax: (702) 486-3773
drgilmer@ag.nv.gov
drands@ag.nv.gov

*Attorneys for Defendants
Governor Brian Sandoval, Adam Paul Laxalt,
Barbara K. Cegavske, the State of Nevada,
and the State of Nevada Board of Examiners*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DUKE THOMAS NGUYEN,

Plaintiff,

vs.

CLARK COUNTY DISTRICT
ATTORNEY'S OFFICE, et al.,

Defendants.

Case No. 2:18-cv-01717-RFB-PAL

**STIPULATION AND ORDER
TO STAY DISCOVERY PENDING
THIS COURT'S DECISION ON
THE STATE DEFENDANTS'
PENDING MOTION
TO DISMISS (ECF No. 36)**

It is hereby stipulated between Plaintiff, Duke Thomas Nguyen, by and through counsel, The Galliher Law Firm, Jeffrey L. Galliher, Esq., Keith E. Galliher, Esq. and George J. Kunz, P.C., Esq., Attorneys for the Plaintiff, and Defendants, Brian Sandoval, Adam Paul Laxalt, Barbara K. Cegavske, the State of Nevada and the State of Nevada Board of Examiners (State Defendants), by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, D. Randall Gilmer, Chief Deputy Attorney General, and Douglas R. Rands, Senior Deputy Attorney General (collectively referred to as "the Parties"), pursuant to Federal Rule of Civil Procedure 29 and Local Rule 26-1, to stay discovery in this matter pending a decision on the Defendants' Motion to Dismiss.

1 This Stipulation to stay is being provided to the Court due to this Court's order dated
 2 March 11, 2019 which requires Plaintiff to comply with LR 26-1 within 30 days after the
 3 first defendant answers or otherwise appears. On March 19, 2019 the State Defendants,
 4 in lieu of answering, filed a Motion to Dismiss pursuant to FED. R. CIV. P. 12(b)(6).¹ See
 5 ECF No. 36. In addition to various other legal reasons for seeking dismissal, the State
 6 Defendants seek dismissal based on Eleventh Amendment immunity as well as under the
 7 doctrine of qualified immunity.

8 Federal Rule of Civil Procedure 26(c)(1) "authorizes the court to stay discovery."
 9 *Rosenstein v. Clark County School Dist.*, 2014 WL 2835074 at *2 (D. Nev. June 23, 2014).
 10 "Common situations in which a court may determine that staying discovery pending a
 11 ruling on a dispositive motion occur when dispositive motions raise issues of jurisdiction,
 12 venue, or immunity." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011); see
 13 also *Mitchell v. Forsyth*, 472 U.S. 511, 526-27 (1985); *Harlow v. Fitzgerald*, 547 U.S. 800,
 14 819 (1982); *Dunn v. Castro*, 621 F. 3d 1196, (9th Cir. 2010) (noting the importance of
 15 deciding immunity issues as soon as possible so that governmental entities and employees
 16 may "avoid the burdens of 'such pretrial matters as discovery'" when possible). Wherefore,
 17 given the pending Motion to Dismiss raising issues of immunity, the Parties respectfully
 18 state that a stay of discovery pending this Court's decision on the Motion to Dismiss is
 19 warranted. Accordingly, based on the mutual agreement of the Parties as reflected in this
 20 Stipulation, the Parties respectfully request discovery be stayed pending the Court's
 21 decision on the Motion to Dismiss.

22 Respectfully agreed and stipulated to by the Parties on March 27, 2019:

23 AARON D. FORD
 24 Attorney General

THE GALLIHER LAW FIRM

25 By: /s/ D. Randall Gilmer
 26 D. RANDALL GILMER
 27 Chief Deputy Attorney General
 28 DOUGLAS R. RANDS
 Senior Deputy Attorney General
 Attorneys for the State Defendants

By: /s/ Jeffrey L. Galliher (with permission)
 JEFFREY L. GALLIHER, ESQ.
 KEITH L. GALLIHER, ESQ.
 GEORGE J. KUNZ, ESQ.
 Attorneys for Plaintiff

¹ Defendant PTS has yet to file an answer or otherwise appear.

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IT IS FURTHER ORDERED that the parties shall have 30 days from decision of the pending motion to dismiss in which to meet and confer and submit a proposed discovery plan and scheduling order in the event any claim survives.

DATED this 28th day of March, 2019.

UNITED STATES MAGISTRATE JUDGE